

Date: 12 June, 2008

**ADDENDUM NO. 3  
TO THE  
PLANS AND SPECIFICATIONS  
FOR THE  
NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT  
TERMINAL MODIFICATIONS II – ELECTRICAL / DATA**

Notice is hereby given that the revisions, additions, and/or deletions attached are hereby made a part of and incorporated into the specifications for the Terminal Modifications II – Electrical / Data at the Norman Y. Mineta San Jose International Airport

1. Notice to Contractors, page 1 of 2:  
FILING OF BIDS: Replace: "June 12, 2008" with "June 19, 2008"
2. MASTER PLAN PROJECT LABOR AGREEMENT: ATTACHMENT 6  
Replace: "San Jose International Airport Project Labor Agreement" with *Revised* "San Jose International Airport Project Labor Agreement." See Attachment.



HARRY FREITAS  
Deputy Director of Public Works  
Airport Construction Division

**ADDENDUM MUST BE SIGNED AND MUST BE RETURNED WITH THE BID PROPOSAL TO ACKNOWLEDGE RECEIPT. FAILURE TO SIGN AND RETURN THE ADDENDUM WITH THE BID SHALL BE A CAUSE FOR REJECTION OF THE BID**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**SAN JOSE INTERNATIONAL AIRPORT**

**MASTER PLAN**

**PROJECT LABOR AGREEMENT**

**FINAL**  
**June 1, 2002**



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# **PROJECT LABOR AGREEMENT**

## **INTRODUCTION**

Passenger traffic at San Jose International Airport (SJIA) is forecast to more than double by the year 2010, increasing SJIA's total passenger traffic from 8.1 million passengers in 1994 to 17.6 million passengers in 2010. Likewise, long range air cargo operational and tonnage demand is expected to nearly triple from 94,887 tons in 1994 to 315,300 tons in 2010. These projected increases are directly related to the economy and growth of the Silicon Valley. In order to accommodate this growth and to respond to the projected needs of the local residents, business community and visitors of the Silicon Valley, the City of San Jose has initiated a \$900 million expansion of SJIA as described in the SJIA Master Plan ("Master Plan").

By the year 2010, expansion of the SJIA through construction of the projects described in the Master Plan ("Master Plan Projects") is conservatively estimated to generate nearly 40,000 new jobs, including nearly 2,000 construction jobs. Direct business revenue produced by the expanded SJIA is estimated to increase from nearly \$4.0 billion in 1994 to \$6.8 billion by the year 2010. State and local tax revenues generated by SJIA activity are estimated to grow from \$475 million in 1994 to \$740 million in 2010.

Further, in view of the increased security requirements established by the Federal Government after the events of September 11, 2001, there is an immediate need to undertake efficient construction and timely completion of components of the Master Plan to provide the most modern, effective security facilities and systems available for the protection of the travelling public, those working in the airport, and airport property.

The purpose of this Agreement is to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Master Plan Projects.

## **RECITALS**

- A. The timely and successful completion of the Master Plan Projects is of critical importance to meet the service demands of San Jose Area residents, businesses and visitors, to avoid economic disruption and inconvenience, and to meet the post 9/11 requirements for upgrading security facilities and systems for the safety of all persons, equipment, and property.

- B. Large numbers of workers in the various crafts and trades will be required in the performance of construction work for the Master Plan Projects. Many of the workers will be both represented by the unions affiliated with the Santa Clara and San Benito County Building and Construction Trades Council or other labor organization signatory to this Agreement ("Unions") and employed by contractors and subcontractors (Contractors) signatory to collective bargaining agreements with the Unions.
- C. It is important to successful completion of the Master Plan Projects that a sufficient supply of skilled craft workers is available.
- D. Construction of the Master Plan Projects will involve multiple contractors and bargaining units on the job site at the same time over an extended period of time. An overriding commitment to maintain continuity of work is necessary to avoid the substantial potential for work disruption inherent in this situation.
- E. The interests of the general public, the City of San Jose, the Union(s) and their members, and Contractors would be best served if the construction work proceeds continuously in an orderly, safe, efficient and economical manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work.
- F. The Contractors and Union(s) desire: to mutually establish and stabilize wages, hours, and working conditions for the workers employed on the Master Plan Projects by the Contractors; to encourage close cooperation among the Contractors and the Union(s); to establish effective methods to settle disputes and controversies including jurisdictional disputes that may arise; and to ensure optimum productivity, orderly performance of the work and that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement.
- G. The Contractors and Union(s) desire to provide for effective, prompt and fair dispute resolution procedures for all types of disputes that might arise under this Agreement and for the effective enforcement of the rights and understandings set forth in the Agreement
- H. The contracts for the construction of the Master Plan Projects shall be awarded in accordance with the applicable provisions of the San Jose City Charter, the San Jose Municipal Code and the San Jose Standard Specifications for Public Works Construction.
- I. The City Council has the absolute right to select the lowest responsible bidder for the award of each construction contract for the Master Plan.
- J. The parties hereto pledge their full good faith and trust to work together towards satisfactory completion of the Master Plan.

## **AGREEMENT**

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO AS FOLLOWS:

### **SECTION 1. DEFINITIONS**

- A. "Agreement" means this Project Labor Agreement.
- B. "City" means the City of San Jose acting through its City Council, City Manager, Department Heads and administrative staff.
- C. "Contractor" means all construction contractors and subcontractors of whatever tier engaged in construction work on any part of the Master Plan Projects under contract terms and conditions approved by the City, which incorporate this Agreement.
- D. "Project" collectively refers to and includes all the Master Plan Projects identified by the City as being subject to this Agreement as described in Section 2B Project Description.
- E. "Union" or "Unions" means the Santa Clara and San Benito Counties Building and Construction Trades Council ("Trades Council") and its affiliated local unions and any other labor organization signatory to the agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations, whose names are subscribed hereto and who have through their officers executed this Agreement ("Signatory Unions").
- F. "Director" means the Director of the Public Works Department of the City or his/her designee.
- G. "Projects Coordinator" means the person or persons or business entity, if any, designated by the City to oversee all phases of construction on the project and to oversee the implementation of this Agreement.



## SECTION 2. SCOPE OF AGREEMENT

- A. Parties. The Agreement shall apply and is limited to all Contractors performing construction contracts on the Project, the City and the Signatory Unions.
- B. Project Description. This Agreement shall apply to all construction work performed on behalf of City by Contractors of whatever tier that have been awarded contracts for covered construction work on or after the effective date of this Agreement. Covered construction work is generally described as the core projects for Phase Two of the Master Plan, and specifically includes:
1. Central Terminal;
  2. Public Parking Garages;
  3. Employee Parking Garage; and
  4. Such further major projects as are built pursuant to the Master Plan or consistent with the concepts of the Master Plan for renovation, rehabilitation and improvement of the San Jose International Airport and as are mutually agreed upon by the negotiating parties for construction under the terms of this Agreement, and including specifically, such further new construction works as are an integral part of the Project, specifically referenced in 1-3 above, all of which (including those specifically referenced in 1-3 above) shall include, as appropriate and required, designs, facilities, processes, procedures and/or equipment for the purpose of meeting Federal standards for security of persons and property on airport premises.

It is understood by the parties that the City may, at any time, and at its sole discretion, combine, consolidate or modify and/or not build any one or more of the particular projects proposed to be covered by this Agreement and, with mutual agreement of the negotiating parties to this Agreement, determine to build additional projects under this Agreement not currently proposed. In addition, the City may, at any time, at its sole discretion, terminate, delay and/or suspend any or all portions of work covered by this Agreement.

Construction of the work under a construction contract for the Project shall be deemed complete upon acceptance of the work by the Director. Once the work is completed, the work is no longer covered by this Agreement except when the Director directs the Contractor to engage in repairs, warranty work or modifications required by its construction contract with the City.

- C. Governmental Directives. The parties recognize that the City, as operator of the SJIA, its Contractors and their employees are subject to regulations and directives issued by the

Federal Aviation Administration and other Federal and State agencies. Nothing in this Agreement is intended to compromise the City's compliance with its obligation to comply with such regulations and directives. In the event a directive is received which conflicts with any provision of this Agreement, the directive shall take priority and the Contractors and Unions will be notified by the most expeditious means available. The parties agree that this Project Labor Agreement does not exempt them from any applicable wage order of the California Industrial Welfare Commission, unless the terms of such wage orders themselves permit an exemption for provisions of a collective bargaining agreement, and the parties have exercised such exemption.

D. Exclusions.

1. The Agreement shall be limited to construction work on the Project, and is not intended to, and shall not govern any construction work awarded at San Jose International Airport (SJIA) at anytime prior to the effective date, or after the completion of the Project.
2. This Agreement is not intended to, and shall not affect or govern the award of public works contracts by the City which are outside the approved scope of the Project and which are not an integral part of the Master Plan Project as listed in B, above.
3. The Agreement is not intended to and shall not affect the performance of any other operation, work or function, which may occur in or around the construction site or with the ongoing normal operations, or maintenance of SJIA, or any work coming within the scope of the NTL Articles of Agreement.
4. The Agreement shall not apply to a Contractor's non-construction craft employees, including, but not limited to, executives, engineering employees, supervisors above the level of general foreman, superintendents, staff engineers, inspectors, safety personnel, office and clerical employees or other professional, engineering, administrative, supervisory and management employees; and provided, however, the superintendents who so choose may make fringe benefits contributions to trust funds of unions signatory hereto which agree to accept such contributions.
5. This Agreement shall not apply to :
  - a. Equipment and machinery owned or controlled and operated by the City.
  - b. All off-site manufacture, warehousing and handling of materials, equipment or machinery (except for dedicated lay-down or storage areas).
  - c. All employees of the design team or of other consultants to the City not performing manual labor within the scope of this agreement.

- d. Any work performed on or near or leading to the site of work covered by this Agreement and undertaken by state, county or other governmental bodies, or their contractors; or by public utilities or their contractors; and/or by the City or its contractors (for work not a part of this Agreement).
- e. Off-site maintenance of leased equipment and onsite supervision of such work.
- f. Work performed by employees of a manufacturer or vendor or other company when required to maintain a manufacturer's or vendor's warranty or guarantee or, as necessary, in limited circumstances, because of specialized knowledge required for installation of a particular item where employees working under this Agreement lack the necessary skills. Should such circumstances arise, the contractor shall advise the City and/or Project Coordinator and the affected Union(s), including the Council, at least five (5) working days prior to the utilization of such employees, with the reasons therefore, as well as provide a copy of any warranty or guarantee involved. Every effort will be made, consistent with the requirements of the warranty or guarantee, or the need for specialized knowledge or skills for installation to utilize employees working under this Agreement pursuant to the advice and oversight of supervisors and/or technicians from a manufacturer, vendor, or other company, rather than employees not covered in the Agreement.
- g. Laboratory for specialty testing or inspections not ordinarily performed by the Unions; provided, however, that employees engaged in testing and inspection functions normally performed on a construction site and employed by the construction contractor or a subcontractor of the construction contractor shall be subject to this agreement.
- h. Non-construction support services contracted for by the City in connection with this Project.
- i. Any work performed by lessees, tenants, and/or concessionaires of the City or their contractors. City shall advise all lessees, tenants, and/or concessionaires of its labor relations policies for construction work under its direction at the Airport, as reflected by this Agreement, and that in their on-site construction work, if any, they should consider using contractors and subcontractors of whatever tier that are able to work in harmony with the contractors and employees undertaking work covered by this Agreement. All parties to this Agreement and in contractual relationship with the City and/or its lessees, tenants and/or concessionaires will work to promote continuous labor peace and stability on the site pursuant to

these understandings. The signatory unions specifically reserve their right to take all lawful economic action, including picketing, not otherwise precluded by this Agreement, against any contractor on excluded work, including tenant improvement work, if the union believes the contractor to be unfair.

j. All work by employees of the City.

E. Award of Contracts. It is understood and agreed that the City and/or Contractor as appropriate have the absolute right to select any qualified bidder for the award of contracts under this Agreement. Such selection shall be made without regard to and is not dependent upon the existence or nonexistence of an agreement between such bidder and any party to this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement.

### **SECTION 3. EFFECT OF AGREEMENT**

A. Binding Effect.

By executing this Agreement, the Union(s) and the City agree to be bound by each and every provision of the Agreement.

The provisions of this Agreement, including the Schedule A's, which are the local collective bargaining agreements of the Signatory Unions having jurisdiction over the work on the Project (as may be changed from time-to-time consistent with Section 21 and are incorporated herein by reference), shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail.

It is understood that this Agreement, together with the referenced Schedule A's constitute an integrated, self-contained, stand-alone agreement, and that by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area or national agreement as a condition of performing work within the scope of this Agreement. In addition, it is understood and agreed that all grievances and disputes involving the interpretation or application of this Agreement, including the Schedule A's, shall be resolved according to the procedures set forth in Section 9 of this Agreement; provided, however, that should dispute involve a single Schedule A and a Contractor signatory thereto, and not involve interpretation or application of this Project Labor Agreement, such dispute shall be processed and resolved pursuant to the grievance.

provisions of that Schedule A. Nevertheless, should there be a dispute in the first instance as to whether the provisions of Section 9 of this Agreement or the grievance procedures of a Schedule A apply, the dispute shall be presented initially to an arbitrator selected under Section 9, for resolution as to the applicable procedure. Such referral of a dispute as to the applicable procedures shall be done by written submission or conference call among the parties and the arbitrator, and heard and decided within 30 days of the designation of the arbitrator. Should the arbitrator hold that Section 9 applies, the parties may, by mutual agreement, submit the issue to the same arbitrator pursuant to the provisions of Section 9, or, absent mutual agreement, commence processing the dispute at step 1 of that Section.

By accepting the award of a construction contract for the Project, whether as a contractor or subcontractor the Contractor agrees to be bound by each and every provision of this Agreement and shall evidence such agreement by executing the Agreement to Be Bound form attached hereto as Appendix A prior to receiving a Notice to Proceed.

B. Subcontractors.

At the time that any Contractor enters into a subcontract with any subcontractor of any tier for the performance of construction work within the scope of this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified by the negotiating parties, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree to be bound by each and every provision of the Agreement prior to the commencement of work.

Each subcontractor shall evidence their agreement to be bound by execution of the Agreement to Be Bound form attached hereto as Appendix A. A copy of the Agreement to Be Bound executed by the contractors and their subcontractors shall be available for review by the Union(s). If the subcontractor refuses to execute the Agreement to be Bound, or the Contractor fails for any other reason to obtain the written agreement of the subcontractor to be bound, then such subcontractor shall not be awarded a construction subcontract to perform work on the Project. A subcontractor who executes the Agreement to be Bound shall be considered a signatory party to this Agreement.

C. No Application to Non-Parties. The Agreement shall only be binding on the signatory parties hereto, including any subcontractor who agrees to be bound as provided in Section 3B above, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party unless they perform work covered under the scope of this Project Labor Agreement.

D. Several Liability. It is understood that the liability of each Contractor and the liability of each Union under this Agreement shall be several and not joint.

## SECTION 4. UNION SECURITY

- A. Unions as Sole Bargaining Representative. Contractors recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.
- B. Union Membership. Each employee covered by this Agreement shall be subject to the valid union's security provisions contained in the Schedule A of the craft in which he is employed; provided, however, that "core workforce" employees as defined in Section 5.A, below, and employees employed pursuant to Section 5.C, below, may, at their option, refrain from joining a union as may otherwise be required by such union security provisions; provided, however, that such employees shall nevertheless be required, for the period during which they are performing work under the Agreement, to pay such monthly dues, service dues, "working dues" or administrative dues (whichever shall be the lesser) as are uniformly required of employees working under this Agreement and subject to the full union security provisions of the applicable Schedule A.

## SECTION 5. REFERRAL

- A. Union Referral/Core Workforce. The Union(s) shall be the primary source of all craft labor employed on the Project. However, each Contractor may utilize his/her own core workforce. When the Contractor requires employees for the Project in addition to his/her core workforce it shall utilize the Union referral system. An employee shall be considered a member of a Contractor's core workforce if the employee's name appears on the Contractor's active payroll for 90 of the 120 working days before award to the Contractor of any construction contract for the Project. At the request of a signatory union, a contractor employing "core workforce" employees shall be required to demonstrate to the satisfaction of the Project Coordinator (or authorized representative of the City if there is no Project Coordinator) that such employees are properly classified as members of its core workforce. Copies of cancelled paychecks, certified payrolls, or official information submitted for withholding tax purposes, covering the relevant dates, shall be presumptive evidence of proper core workforce designation. Core employees shall be referred through the appropriate hiring hall on a call-by-name basis, completing all necessary dispatch and trust fund forms prior to starting work on the Project.
- B. Union Referral System. Contractors shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Union(s) when such procedures are not in violation of applicable law. Such referral system will be operated in a nondiscriminatory manner and in compliance with Federal, state, and local laws and regulations that require equal employment opportunities and nondiscrimination. Referrals shall not be affected in any way by union membership policies or requirements.

The Contractor shall have the right to determine the competency of all employees and may reject any referral for any reason provided that the Contractor complies with Section 12G (Reporting Pay), if applicable, and Section 16 (No Discrimination).

- C. Use of Other Sources. If the Union's referral facilities are unable to fill a Contractor's requisition for employees within a forty eight (48) hour period after such requisition is made by the Contractor, the Contractor shall be free to obtain work persons from any source. The Contractor shall notify the Union of any person employed from outside the Unions' referral system within one working day of employment, and such person shall complete all necessary trust fund forms within three (3) working days of this notice. The Union will cooperate in this requirement to avoid interfering with the person's scheduled work hours on the Project.
- D. Craft Foremen/General Foremen. The selection of craft foremen and/or general foremen shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen at the request of the Contractor.
- E. Referral of Area Residents. Union(s) will exert their utmost efforts to recruit sufficient numbers of skilled craftpersons to fulfill the requirements of the Contractor. The parties to the Agreement support the development of increased numbers of skilled construction workers from the residents of the San Jose Area to meet the needs of the Project and the requirements of the industry generally. Accordingly, Union(s) agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures, of qualified San Jose Area residents as journeymen and apprentices on the Project and entrance into such apprenticeship and training programs as may be operated by the signatory Union(s).

## **SECTION 6. UNION REPRESENTATION AND STEWARDS**

- A. Access. Authorized representatives of the Union shall have access to the Project, provided that they do not interfere with the work of the employees and comply with established visitor, security and safety rules of the Project. Reasonable requests for such access meeting these conditions shall not be unreasonably withheld, and the City and/or Project Coordinator shall work with the signatory unions to secure the necessary security clearances.
- B. Stewards. Stewards may be designated and shall function as set forth in the applicable craft's Schedule A. There shall be no non-working stewards.

## **SECTION 7. MANAGEMENT RIGHTS**

- A. Exclusive Authority. The Contractor retains the full and exclusive authority for the management of its operations. Except as expressly limited by other provisions of this Agreement, the Contractor retains the right to direct the work force including, but not limited to, the hiring, promotion, transfer, layoff, discipline or discharge of employees; the selection of foremen; the assignment and schedule of work; the promulgation of reasonable work rules; and, the requirement for overtime work, determination of when it will be worked and the number and identity of employees to perform the work; provided, however, that the number and classification(s) of the employee(s) assigned to a particular task shall be undertaken consistent with the assignment/manning provisions of the applicable Schedule A established for the safety of the individuals and the maintenance and protection of the equipment they utilize.
- B. No Practices that Limit Productivity. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict productivity, efficiency of the individual and/or joint working efforts of employees. The Contractor may utilize any methods or techniques of construction; provided, however, that no employee will be required to work in unsafe conditions, hazardous to life or person.
- C. No Limits on Choice of Materials/Equipment. There shall be no limitation or restriction by a Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the use of equipment, machinery, packaging, pre-cast, pre-fabricated, pre-finish or pre-assembled materials, tools, or other labor saving devices. Nor shall there be any limitation or restriction upon the implementation and use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work that may be initiated by the Contractor. The onsite installation or application of all items shall be performed by the craft having jurisdiction over such work.

## **SECTION 8. WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS**

- A. No Strikes, No Lockouts. The Unions, the City and Contractors agree that for the duration of the Project Stabilization Agreement:
1. There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns or other disruptive activity of any kind, for any reason, including disputes relating to the negotiation or renegotiation of the local collective bargaining agreements serving as the Schedule A's, by the Unions or employees employed on the Project, at the job site of the Project. Nor shall the Unions or employees engage in any disruptive activity at any other facility of the City of San



Jose because of a dispute on the Project. Failure of any employee on work covered by this Agreement to cross any picket line established by any Union, signatory or non-signatory to the Agreement, or any other organization, to undertake covered work as directed by his employer, is a violation of this Section. The Union(s) shall take all steps necessary to obtain compliance with this Section and shall direct and/or instruct any covered employee to cross any picket line which otherwise interferes with such employee carrying out covered work as directed by his/her employer. Disputes arising between the Unions and Contractors on other City projects or non-City projects, and/or on work excluded from coverage by Section 2.D., are not governed by the terms of this Agreement; and it is specifically recognized that the signatory unions reserve their right to take all lawful economic action, including picketing, against any contractor on such excluded work; provided, however, that such action does not result in the cessation and/or disruption of work by any employee covered by this Agreement for whom work is available under this Agreement or the disruption of covered work as a result of an interference with deliveries, pickups or other transportation of goods and services necessary for the continuance of covered work. It is understood and agreed that this proviso does not include indirect effects on covered work resulting from the normal and expected economic consequences of such lawful action directed against non-covered work.

2. As to employees employed on the Project, there shall be no lockout of any kind by a Contractor covered by the Agreement.
3. The Contractor may discharge any employee violating Section 1, above, and any such employee will not be eligible for rehire under this Agreement for a period of 90 days.

B. Arbitration Procedure. Any party to this Agreement, including the City, may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a violation of this Section is alleged to have occurred:

1. A party invoking this procedure shall notify John Kagel, Esq. (and if he is unavailable, Gerald McKay) whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, she/he shall appoint an alternate. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile or telephone to the party alleged to be in violation and to the Trades Council if a Union is alleged to be in violation.
2. Upon receipt of said notice, the arbitrator named above or her/his alternate shall convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

3. The arbitrator shall notify the parties by facsimile or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any decision by the arbitrator.
4. The sole issue at the hearing shall be whether or not a violation of this Section 8 has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The decision shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the decision. The arbitrator may order cessation of the violation of this Section and other appropriate relief and such order shall be served on all parties by hand or registered mail upon issuance.
5. Such decision may be enforced by any Court of competent jurisdiction upon the filing of the agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's decision all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's decision shall be served on all parties by hand or delivered by certified mail.
6. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.
7. The fees and expenses of the arbitrator shall be divided equally between the moving party or parties and the party or parties respondent.

C. Liquidated Damages.

1. If the Arbitrator determines that a violation of Section 8A has occurred, the breaching party shall, within eight hours of receipt of the decision take all steps necessary to immediately cease such activities and return to work. If the breaching party involved does not cease such activities by the beginning of the next regularly scheduled shift following the expiration of the eight hour period after receipt of the Arbitrator's decision, then the breaching party shall pay the sum of five thousand (\$5,000) dollars as liquidated damages to the City, and shall

pay an additional ten thousand (\$10,000) dollars per shift for each shift thereafter on which the breach has not been remedied.

2. It is understood that it is the obligation of the breaching party to take all reasonable and available steps to cease the activities causing the breach, (which steps, in the case of a Union, may include, but are not limited to, notifying the employees it represents of the arbitrator's decision, making new referrals from the hall, fining members, and/or such other steps as are reasonable under the circumstances to achieve a cessation of the breach). A party meeting this obligation (which continues as long the breach is continuing) shall not be liable for liquidated damages. The arbitrator shall retain jurisdiction for the sole purpose of determining compliance with this obligation and determining the amount of liquidated damages, if any; but such retention shall not prevent the moving party from seeking judicial enforcement of the initial award.
- D. The City or its Project Coordinator, if any, and the Building and Construction Trades Council shall be a party in interest in all proceedings arising under this Section 8 and Sections 9 and 10 hereof and shall be sent contemporaneous copies of all notifications required under these Sections, and, at its option, may participate as a full party in any proceeding initiated under these Sections.
- E. The procedures contained in Section 9 shall not apply to any alleged violation of this Section 8, except that any employee discharged for violation of Section A.1, above, may use the procedures contained in Section 9 to determine if he or she did, in fact, engage in that violation.

## **SECTION 9. DISPUTE AND GRIEVANCE ARBITRATION PROCEDURE**

- A. All parties to this Agreement recognize the importance of maintaining continuous and uninterrupted performance of work on the Project and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Section 9.
- B. The parties agree that any question arising out of and during the term of this Agreement involving its interpretation or application, including any applicable provision of the Schedule A's incorporated herein by reference, (other than jurisdictional disputes or alleged violations of Section 8, or disputes requiring only the interpretation or application of an individual Schedule A as set forth in Section 3.A) shall be settled according to the following steps:

**STEP 1.** a. When any employee subject to the provisions of this Agreement feels he/she is aggrieved by a violation of this Agreement, including the Schedule A's incorporated herein by reference, he/she shall, through the local Union business

representative or job steward, within five (5) working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated. The business representative of the Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the grievance procedure, provided the grievance is reduced to a writing setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be nonprecedential, except as the parties directly involved, unless endorsed in writing by the Project Coordinator within five (5) working days after resolution has been reached.

b. Should a Union or Contractor have a dispute with another party, the disputing party shall within five (5) working days after the disputing party knew or should have known of the facts or occurrence giving rise to the dispute, request a meeting with the other party to attempt to settle the dispute. The parties shall meet within three (3) working days after the request to meet is made by the disputing party to attempt to settle the dispute. If after meeting, a settlement is not reached within three (3) working days, the dispute shall be reduce to writing and proceed to Step 2 in the same manner as outlined above for the adjustment of an employee complaint

STEP 2. Within five (5) working days after the receipt of the written notice of the dispute or grievance, the Business Representative of the involved Local Union or Trades Council, or his/her designee, and the representative of the involved Contractor shall confer and attempt to resolve the dispute or grievance. In the event that the representatives are unable to resolve the dispute or grievance within five (5) working days after its referral to this Step 2, either involved party may submit it in writing within five (5) business days to Step 3.

STEP 3. Within five (5) business days after referral of a dispute to Step 3, the representatives shall submit the matter to an arbitrator for final and binding arbitration. The parties agree that the following named arbitrators shall serve on a rotational basis in the order listed below:

- |    |    |
|----|----|
| 1. | 2. |
| 3. | 4. |
| 5. | 6. |

In the event that any of the above-listed arbitrators are unable or unavailable to serve in turn, the parties agree that the next available arbitrator shall serve and the rotation shall not be disturbed. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the Arbitrator

shall be final and binding on all parties. The Arbitrator shall have the authority to make decisions only on the issues presented and shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expenses of the Arbitrator shall be borne equally by both parties.

The Arbitrator shall arrange for a hearing no later than twenty-eight (28) calendar days from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding Arbitrator.

- C. The time limits specified in any step of the procedure set forth above may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the procedure. However, failure to process a dispute or grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such dispute or grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.
- D. In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of the procedure, the parties agree that such settlements shall not be precedent-setting; and, further, recognizing the unique provisions of this Agreement, any decision issued by an arbitrator pursuant to Step 3 shall be applicable to work covered by this Agreement only, and may not be used for any purpose regarding works not so covered.
- E. No adjustment or decision may provide retroactivity exceeding sixty (60) days prior to the date of the filing of a written grievance.
- F. The City and the Building and Construction Trades Council shall be notified by the involved Contractor of all actions at Steps 2 and 3. Each shall be considered an interested party in any such dispute or grievance and accordingly, may, but shall not be obligated to intervene in the proceedings to resolve the dispute or grievance.

## **SECTION 10. JURISDICTIONAL DISPUTES**

- A. Assignment of Work/Pre-Job Conference. Work shall be assigned by the Contractor in accordance with the Procedural Rules of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry ("Plan"), and shall be based upon the appropriate agreements of record, decisions of record and previously provided local written agreements between and/or among the Unions. Such assignments shall be disclosed by the Contractor at a pre-job conference held in accordance with industry practice. A representative from the Council, the participating Union(s) and the City will be invited to attend this conference.

- B. Settlement of Jurisdictional Disputes. All jurisdictional disputes between the Signatory Unions over the Contractor's assignment of work will be settled in accordance with the procedural rules and regulations of the Plan, effective June 1, 1984 as amended, or any successor plan. All Contractors on the Project agree to assign work and be bound to the terms and conditions of the Plan, and all Signatory Unions agree that the assignments of the Contractors shall be followed until the dispute is resolved in accordance with this section.
- C. Effect of Decision. Any award or resolution made pursuant to this procedure shall be final and binding on the disputing Unions and the involved Contractor under this Agreement only, and may be enforced in any court of competent jurisdiction in accordance with the Plan. Such award or resolution shall not establish a precedent on any construction work not covered by this Agreement. In all disputes under this Section, the City shall be considered a party in interest, with a full right of participation.
- D. Restrictions on Crews. In making any determination hereunder, there shall be no authority to assign work to a double crew, that is, to more employees than the minimum required to perform the work involved safely and efficiently and to protect and maintain the equipment to be utilized, as set forth in the applicable craft's Schedule A, or where no such provisions exist in a Schedule A, as determined by the arbitrator; nor to assign the work to employees who are not qualified to perform the work involved. This does not prohibit the establishment, with the agreement of the involved Contractor, of composite crews where more than one employee is needed for the job. The aforesaid determination shall decide only to whom the disputed work belongs.
- E. No Strikes Pending or Due to Resolution of Dispute. There will be no strikes, work stoppages, slow downs, or other disruptive activity arising out of any jurisdictional dispute. Pending resolution of the dispute, the work shall proceed uninterrupted as assigned by the Contractor. The award or resolution shall be confirmed in writing to the involved parties. There shall be no strike, work stoppage, slowdown or other disruptive activity in protest of any such award or any resolution.

## **SECTION 11. WAGES AND BENEFITS**

- A. Hourly Rates. All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the applicable prevailing rate determination.
- B. Benefits. Contractor agrees to pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A; provided, however, that each Contractor and Union agree that only such bona fide employee benefits as accrue to the direct benefit of the employees (such as pension and annuity, health, vacation, and

apprenticeship) shall be included in this requirement and required to be paid by the Contractor under this Agreement; provided further, however, that this provision does not relieve Contractors signatory to a local collective bargaining agreement with a signatory Union which would be applicable to this Project from making any other fund contributions (including, but not limited to those for contract administration), required by such local agreement. Contractor shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article. By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements, specifying the detailed basis on which the payments are to be made into, and the benefits paid out of, such Trust Funds. If a contractor fails to pay wages or benefits, the City agrees to honor a properly submitted, legally enforceable Stop Notice. Nothing in this Agreement, however, shall be construed to limit or prevent the Unions or Trust Funds from asserting or enforcing legal rights to collect delinquent wages or benefit contributions.

- C. Wage Premiums. Wage premiums including, but not limited to those based on height of work, hazard pay, scaffold pay, and special skill shall not be applicable to work under this Agreement except to the extent provided for in any applicable prevailing wage determination.
- D. Travel and Subsistence Pay. Travel expenses, travel time, subsistence allowance and/or zone rates and parking reimbursements shall not be applicable to work under this Agreement, except to the extent provided for in any applicable prevailing wage determination.

## **SECTION 12. HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS**

- A. Work Day and Work Week. Any consecutive eight (8) hours per day between the hours of 6:00 A.M. and 5:00 P.M., plus one-half (½) hour unpaid for lunch, approximately midway through the shift, shall constitute the standard work day. Forty (40) hours per week shall constitute a regular week's work. The regular work week will start on Monday and conclude on Friday. The foregoing provisions are applicable unless otherwise provided in the applicable prevailing wage determination, or unless changes are permitted by law and such are agreed upon by the parties. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week.

It is recognized and acknowledged that the City may prohibit some or all work on certain days, for example, peak travel days in holiday period, or to otherwise require revisions to the normal work scheduling, to accommodate SJIA operational considerations. The City will provide reasonable notice to the parties of any changes required under this provision.

- B. Starting Times. Starting times shall be established by the Contractor. Employees shall be at their place of work at the starting time and shall remain at their place of work (as designated by the Contractor) performing their assigned functions until quitting time. There shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the Contractor.
- C. Overtime. Overtime shall be paid in accordance with the requirements of the general prevailing wage determination applicable to the Project. There will be no restriction on the Contractors' scheduling of overtime or the non-discriminatory designation of employee who will work the overtime. There shall be no pyramiding of overtime pay under any circumstance.
- D. Shifts. Shift work may be performed at the option of the Contractor upon three (3) days prior notice to the Union and shall continue for a period of not less than five (5) working days. Saturdays and Sundays, if worked, may be used for establishing the five (5) day minimum work shift. The last shift starting on or before 6:00 p.m. Friday shall be considered Friday work time; the first shift beginning at or after 6:00 A.M. on Monday shall be considered Monday work time. The shift starting at or after 6:00 a.m. is designated as the first shift, with the second shift following. First shift employees will receive eight (8) hours pay for eight (8) hours worked. Second shift employees will receive eight (8) hours pay for seven and one-half (7-1/2) hours work, and third shift employees will receive eight (8) hours pay for seven (7) hours work. Where the provisions of Section 12 E are applicable, a second shift may be implemented under the same notice and duration conditions as set forth above, with second shift employees receiving ten (10) hours pay for nine (9) hours worked.
- It is recognized that the necessity to work around the continuing operation of the SJIA may require second and/or third shifts without the scheduling of previous shifts and/or the adjustment of such second or third shifts starting times. Therefore, upon three working days' notice from the City or Projects Coordinator, or less notice as is mutually agreed upon by the City or Projects Coordinator and the Trades Council, the starting and ending time of a shift may be advanced or delayed from the normal times established in the Schedule A's.
- E. 4-Day Work Week. The contractor (s) may, with the approval of the Project Coordinator, establish a standard work week of four (4), ten (10) hour days if permitted by and in accordance with the applicable schedule A.
- F. Holidays. Holidays shall be recognized and paid (where required) as provided for in the applicable prevailing wage determination.
- G. Reporting Pay. Reporting pay shall be recognized and paid as provided in the applicable craft's Schedule A.



- H. Call Out Pay. When an employee has completed his or her scheduled shift and is "called out" to perform special work of a casual, incidental or a regular nature, he or she shall receive overtime pay for the actual hours worked with a minimum guarantee of a wage equivalent to four (4) hours pay at the employee's regular straight time rate.
- I. When an employee leaves the job or work location of his/her own volition or is discharged for cause, the employee shall be paid only for the actual time worked.
- J. Time Keeping. The Contractor may use brassing systems to check employees in and out. Each employee must check himself/herself in and out. The Contractor will provide adequate facilities for checking in and out in an expeditious manner.
- K. Meal Period. The Contractor will schedule a meal period not more than one-half (½) hour in duration at the work location at approximately four (4) hours into the scheduled work shift, provided however, that the Contractor may, for efficiency of operation, establish a schedule which coordinates the meal periods of two or more crafts.
- L. Make-up Day. To the extent permitted by the applicable prevailing wage determination, when an employee has been prevented from working a majority of the standard work day for reasons beyond the control of the Contractor, including, but not limited to inclement weather, major mechanical breakdown, a make-up day may be scheduled on Saturday (or Friday, if the provisions of Section 12 E are applicable), provided the employee voluntarily agrees and that at least six (6) hours of work are scheduled (eight (8) if Section 12 E applies), to be paid at the employee's straight time rate of pay until the employee has reached forty (40) hours of work for the standard work week, and then at the appropriate overtime rate of pay provided for in the prevailing wage determination.
- M. Parking. When parking is provided, it shall be at no charge to the employees and, if such parking is further than ½ mile from the employees' place of work, transportation shall be provided at no cost to the employee. Such transportation, where provided, shall be scheduled to permit the employee arrived at his/her place of work at the scheduled starting time; and, further, where such transportation delivers the employee to the central drop off location after his/her quitting time, the employee should be compensated for such travel time in the amount calculated at the employee straight time rate of pay (unless otherwise mandated by statute, regulation or judicial decision).

### **SECTION 13. APPRENTICES**

- A. The parties recognize the need to maintain continuing support of programs designed to develop sufficient numbers of skilled workers in the construction industry. The Contractors will employ apprentices in their respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

- B. Apprentices may comprise up to the percentage of each craft's workforce at any time as provided in the applicable Schedule A. The Unions agree to cooperate with the contractor in furnishing apprentices as requested up to the maximum percentage, and there shall be no restrictions in the utilization of apprentices in performing the work of their craft, providing they are properly supervised and employed in accordance with the standards of the apprenticeship committee as approved by the California Division of Apprenticeship Standards. The apprentice ratio for each craft shall be in compliance with the applicable Schedule A and approved apprenticeship standards for that craft.

#### **SECTION 14. SECURITY, SAFETY, PROTECTION OF PERSON AND PROPERTY**

- A. It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the City, the Project Coordinator or the Contractor.
- B. Certain rules of conduct and security have been established by governmental agencies (City, State and Federal government) which are applicable to all employees under the Agreement and which may change from time to time. Employees will be notified of such rules and must observe such rules at all times. Failure to do so may result in discipline up to and including discharge.
- C. Employees shall be bound by the safety, security, and visitor rules established by the Contractor, the Project Coordinator or the City. These rules will be published and posted in conspicuous places throughout the work site. An employee's failure to comply with such safety, security and/or visitor rules shall be cause for discipline, including discharge.
- D. The Union(s) shall consult with and assist the City to develop an efficient system for issuing security badges to employees. Employees shall cooperate in providing the appropriate, legally required information necessary to obtain the security clearance. Failure of the employee to cooperate in providing such information shall result in the employee's removal from the job.
- E. The inspection of incoming shipments of equipment, machinery and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of his/her choice. All employees shall comply with the security procedures established by the City, Project Coordinator, and/or Contractor.
- F. A contractor may suspend all or a portion of the job to protect the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked, provided however, that where the Contractor requests employees to remain at the

site and available for work, the employee shall be compensated for the standby time at their appropriate hourly rate of pay.

- G. The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees.
- H. The City or its Project Coordinator may establish and implement, as part of an owner-controlled insurance program, and after negotiation with the Union, a worker's compensation delivery system, including a dispute resolution procedure under the provisions of Section 3201.5 of the California Labor Code.
- I. Substance abuse programs established pursuant to Schedule A's shall be applicable on the project to all contractors and employees subject to such Schedule A's; provided, however, that at the request of the City, a uniform substance abuse program may be established for project-wide application to all persons regularly employed on the project. Any such project-wide program shall meet the policy guidelines established by the Building and Construction Trades Department for substance abuse programs, including a limitation of the testing to pre-hire, reasonable cause and post-incident testing, unless otherwise agreed by all parties or are required by applicable local, state or federal laws; and such program shall be implemented only after the Council has received at least thirty (30) days' notice of the details of the program and has had the opportunity to meet and confer with the City and/or Project Coordinator concerning the program; and, finally, such program as implemented may be grieved by the Council as to its reasonableness.

## **SECTION 15. WORKING CONDITIONS**

- A. Rest periods, coffee breaks, or other paid for non-working time during working hours shall be permitted in accordance with applicable statute, regulation or Wage Order.
- B. Should the City request, rules will be established regarding use by employees of the public facilities at the Airport including, but not limited to, restrooms, eating establishments and parking facilities.

## **SECTION 16. NO DISCRIMINATION**

Contractors and Union(s) agree not to engage in any form of discrimination on the ground or because of race, color, religion, national origin, ancestry, age, sex, sexual orientation or disability, membership or non-membership in the Union, or any other basis recognized by law, against any employee, or applicant for employment, on the Project.

## **SECTION 17. COMPLIANCE**

The Contractors and Union(s) together with the Office of Equality Assurance of the City of San Jose shall investigate and monitor compliance with the provisions of the Agreement regarding the payment of wages and benefit contributions contained in Section 11.

## **SECTION 18. LABOR-MANAGEMENT COMMITTEE**

This Agreement is intended to provide close cooperation between management and labor. To that end, the City and Trades Council shall each designate three representatives to serve on a Project Labor-Management Committee. At least one of the City's representatives shall be a Contractor actively employed on the Project. The Committee shall meet periodically to review progress on the Project, and to discuss matters of general concern, such as safety and security. It is intended that the Committee serve as a forum to foster communication between management and labor, and assist the Unions and the Contractors to complete the Project in an economic and efficient manner without interruption, delays or work stoppages. The Committee shall have no authority to review grievances or disputes involving this Agreement. Such grievances and disputes are subject to the procedures set forth in Section 9.

## **SECTION 19. SAN JOSE CHARTER, MUNICIPAL CODE, STANDARD SPECIFICATIONS**

Contractors and Unions acknowledge and agree that all construction contracts identified by the City as part of the Project shall be awarded and carried out in accordance with applicable provisions of the San Jose City Charter ("Charter"), the San Jose Municipal Code, the 1992 Specifications for Public Works Projects, and the special provisions included as part of the contract documents (all, as they now exist and as they may be amended in the future).

## **SECTION 20. SAVINGS CLAUSE**

The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause,

sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.

Further, if a court of competent jurisdiction determines that all or part of this Agreement is invalid and/or enjoins the City from complying with all or part of the Agreement's provisions, or a statute or Executive Order prevents the City from receiving funding which would otherwise be available for work to which the City would otherwise apply this Agreement, the Agreement shall not be required as part of the bid specification or award of contract for such work, such work shall be "not covered" for purposes of this Agreement and no provisions, or requirements or limitations of this Agreement shall be applicable to such work; but such shall not affect the intent of this Agreement or its application to any other work to which the Agreement has been or subsequently will be applied.

## **SECTION 21. TERM**

A. It is understood and agreed that this Agreement is subject to review by the San Jose City Council and that if the Council finds the Agreement acceptable, the Agreement and all of its terms shall be included as a condition of award of construction contracts identified by the City as part of the Project. The Agreement shall be included as a condition of the award of construction contracts identified by the City as part of the Project. This Agreement shall be effective on June 20, 2001 and shall continue in effect for the duration of the Project construction work described in Section 2 hereof.

1. Construction of the work under a construction contract for the Project shall be deemed complete when the Contractor has turned the work over to the City and the Director has issued a final acceptance of the work. As areas and systems of the Project are inspected and construction tested and/or approved by the Contractor and accepted by the Director or authorized third parties, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed to engage in repairs, modifications, check-out and/or warranty work required by its contract with the City.
2. Notice of each final acceptance received by the Contractor will be provided to the Union with a description of what portion of work has been accepted. Final acceptance may be subject to a "punch list" and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the Director and the Director issues a Notice of Completion for the work.

B. Schedule A's Shall Continue Until New or Modified Agreement in Place. The Schedule A's incorporated as part of this Agreement shall continue in full force and effect for work covered under this Agreement until such times as the Union and/or Contractor parties to the collective bargaining agreements which are the basis for the Schedule A's notify the

City or the Project Coordinator that a new or modified agreement has been reached. The notice to the City or the Project Coordinator shall describe the new or revised terms and the effective date(s) of such terms. Such new or revised terms shall be incorporated into this Agreement to the extent not inconsistent with the provisions of this Agreement. The effective date(s) of such new or revised terms shall become the effective date(s) under this Agreement.

- C. Retroactive Terms. The Contractor agrees to recognize and implement such new or modified terms on their effective date(s). However, the Contractor shall have seven (7) days to implement any new or modified terms that are retroactive in effect and which are applicable to employees employed on the Project.
- D. Certain Provisions Shall Not Apply. Provisions negotiated into the new or modified collective bargaining agreement which are less favorable to the Contractor than those uniformly required of employers for construction work normally covered by those agreements or which may be construed to apply exclusively or predominately to work covered by this Agreement shall not apply to work covered by this Agreement. Any disagreement between the parties regarding the application of the provisions of any new or modified collective bargaining agreement to work covered by this Agreement shall be resolved under the dispute and grievance arbitration procedures set forth in Section 9 hereof.
- E. No Strikes. Work Stoppages or Lockouts. The Unions agree that there will be no strikes, sympathy strikes, work stoppages, picketing, handbilling or activities otherwise advising the public that a labor dispute exists, slowdowns or other disruptive activity of any kind, affecting the Project by any Union involved in the negotiation of such collective bargaining agreements. The Contractors agree that there will be no lockouts affecting the Union(s) during the course of such negotiations.

Dated: July 17, 2002

FOR THE CITY OF SAN JOSE

By: Patricia L. O'Kane

Dated: \_\_\_\_\_

FOR THE SANTA CLARA AND SAN BENITO  
COUNTIES BUILDING AND CONSTRUCTION  
TRADES COUNCIL

By: \_\_\_\_\_

UNION SIGNATORIES:



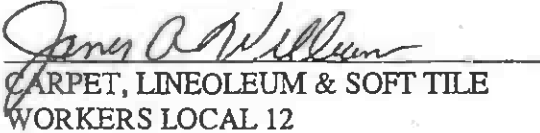
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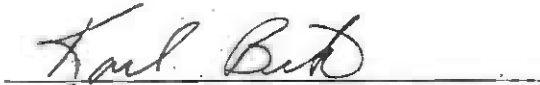
BOILERMAKERS LOCAL UNION 549



BAC LOCAL UNION 3



CARPET, LINEOLEUM & SOFT TILE  
WORKERS LOCAL 12



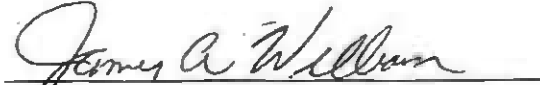
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CEMENT MASONS LOCAL UNION 400



INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS LOCAL 332



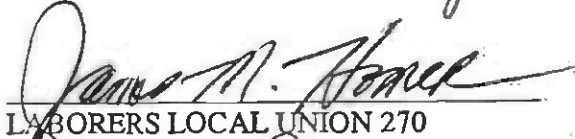
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LOCAL UNION 8




ARCHITECTURAL METAL & GLASS  
WORKERS LOCAL UNION 1621



IRON WORKERS LOCAL UNION 777



LABORERS LOCAL UNION 270



OPERATING ENGINEERS LOCAL 3



PAINTERS LOCAL UNION 507



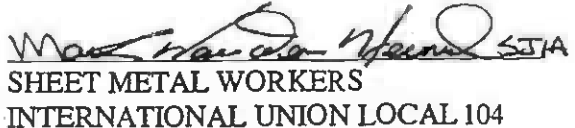
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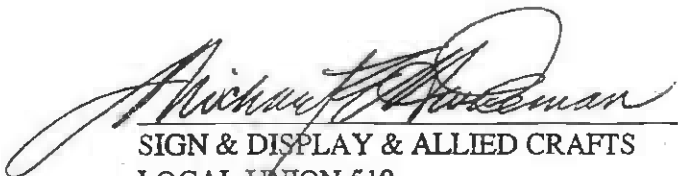
UNITED ASSOCIATION, PLUMBERS  
LOCAL UNION 393




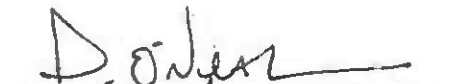
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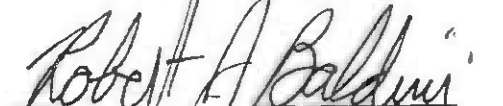


SHEET METAL WORKERS  
INTERNATIONAL UNION LOCAL 104

  
SIGN & DISPLAY & ALLIED CRAFTS  
LOCAL UNION 510

  
UNITED ASSOCIATION, SPRINKLER  
FITTERS LOCAL UNION 483

  
TEAMSTERS LOCAL UNION 287

  
NORTHERN CALIFORNIA  
CARPENTERS REGIONAL COUNCIL



## APPENDIX A. AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor ("Employer") on the \_\_\_\_\_ Project, City of San Jose, California (hereinafter "Project"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the Project Agreement for the City of San Jose at the San Jose International Airport, California (hereinafter "Agreement"), a copy of which was received and is acknowledged, hereby:

1. Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made to said Agreement.
2. Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said Agreement;
3. Agrees to secure from any Contractor (as defined in said Agreement) which is or becomes a subcontractor (of any tier) to it, and from any successors, a duly executed Agreement to be Bound in form identical to this document.
4. Employer agrees that it shall be bound by all applicable trust agreements and plans for the provision of such fringe benefits as accrue to the direct benefit of the employees including, but not limited to, Health and Welfare, Pension, Training, Vacation and/or other direct benefits provided pursuant to the appropriate craft agreement contained in Schedule "A" of the Project Agreement.

Dated: \_\_\_\_\_

(Print Name of Company)  
"Employer"

By: \_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name of Prime Contractor or  
Higher Level Subcontractor)

[LETTERHEAD]

APPENDIX B.1

July 14, 2000

Mr. Terry Tanner  
Business Manager  
International Brotherhood of Electrical Workers Local 332  
1870 Stone Avenue  
San Jose, CA 95125

Re: San Jose International Airport Master Plan Project Agreement - Section 7,  
Management's Right - Prefabrication

Dear Mr. Tanner:

This will confirm the understanding we reached during the negotiation of the captioned Project Labor Agreement (PLA) concerning the use and installation of prefabricated or preassembled components or materials falling within the jurisdiction of your Union. We agree that the provisions of Section 7, "Management Rights" paragraph C, which generally prohibit any limitation or restriction upon a contractor's choice and utilization of prefabricated or preassembled equipment or materials will not supersede the fabrication provisions of Local 332's local collective bargaining agreement (Schedule A) as to any work covered by the Project Labor Agreement.

Should there be a dispute with regard to the application and interpretation of this understanding, employees represented by your Local will continue to use and install all fabricated component and materials on site while proceeding to resolve any dispute pursuant to the grievance procedure of the PLA.

I trust that this letter accurately states the terms of our understanding. If you agree, please indicate your acceptance by executing the enclosed copy of this letter on behalf of Local 332 in the space provided, and return the executed copy to me at your earliest convenience.

Sincerely,

E. Carl Uehlein, Jr.  
Special Counsel  
On Behalf of the City of San Jose  
and San Jose International Airport

Agreed and accepted this \_\_\_\_\_ Day of \_\_\_\_\_, 2000, on behalf of International Brotherhood of Electrical Workers, Local 332.

\_\_\_\_\_  
Terry Tanner  
I-WA/1631847.3

[LETTERHEAD]

APPENDIX B.2

July 14, 2000

Mr. Bruce Word  
Business Manager  
Sheet Metal Workers International Association Local 104  
2610 Crow Canyon Road Suite 200  
San Ramon, CA 94853

Re: San Jose International Airport Master Plan Project Agreement - Section 7,  
Management's Right - Prefabrication

Dear Mr. Word:

This will confirm the understanding we reached during the negotiation of the captioned Project Labor Agreement (PLA) concerning the use and installation of prefabricated or preassembled components or materials falling within the jurisdiction of your Union. We agree that the provisions of Section 7, "Management Rights" paragraph C, which generally prohibit any limitation or restriction upon a contractor's choice and utilization of prefabricated or preassembled equipment or materials will not supersede the fabrication provisions of Local 104's local collective bargaining agreement (Schedule A) as to any work covered by the Project Labor Agreement.

Should there be a dispute with regard to the application and interpretation of this understanding, employees represented by your Local will continue to use and install all fabricated component and materials on site while proceeding to resolve any dispute pursuant to the grievance procedure of the PLA.

I trust that this letter accurately states the terms of our understanding. If you agree, please indicate your acceptance by executing the enclosed copy of this letter on behalf of Local 104 in the space provided, and return the executed copy to me at your earliest convenience.

Sincerely,

E. Carl Uehlein, Jr.  
Special Counsel  
On Behalf of the City of San Jose  
and San Jose International Airport

Agreed and accepted this \_\_\_\_\_ Day of \_\_\_\_\_, 2000, on behalf of Sheet Metal  
Workers International Association Local 104

\_\_\_\_\_  
Bruce Word  
1-WA/1631847.3

[LETTERHEAD]

APPENDIX B.3

July 14, 2000

Lloyd Williams  
United Association, Plumbers Local 393  
370 Umbarger Road  
San Jose, CA 95111

Re: San Jose International Airport Master Plan Project Agreement - Section 7,  
Management's Right - Prefabrication

Dear Mr. Williams:

This will confirm the understanding we reached during the negotiation of the captioned Project Labor Agreement (PLA) concerning the use and installation of prefabricated or preassembled components or materials falling within the jurisdiction of your Union. We agree that the provisions of Section 7, "Management Rights" paragraph C, which generally prohibit any limitation or restriction upon a contractor's choice and utilization of prefabricated or preassembled equipment or materials will not supersede the fabrication provisions of Local 393's local collective bargaining agreement (Schedule A) as to any work covered by the Project Labor Agreement.

Should there be a dispute with regard to the application and interpretation of this understanding, employees represented by your Local will continue to use and install all fabricated component and materials on site while proceeding to resolve any dispute pursuant to the grievance procedure of the PLA.

I trust that this letter accurately states the terms of our understanding. If you agree, please indicate your acceptance by executing the enclosed copy of this letter on behalf of Local 393 in the space provided, and return the executed copy to me at your earliest convenience.

Sincerely,

E. Carl Uehlein, Jr.  
Special Counsel  
On Behalf of the City of San Jose  
and San Jose International Airport

Agreed and accepted this \_\_\_\_\_ Day of \_\_\_\_\_, 2000, on behalf of United Association, Plumbers Local 393.

\_\_\_\_\_  
Lloyd Williams

## **LIST OF SCHEDULE "A"'s**

**LIST APPLICABLE LOCAL COLLECTIVE BARGAINING AGREEMENTS WITH  
EXPIRATION DATE. WILL BE UPDATED TO REFLECT RENEGOTIATED  
AGREEMENTS.**

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